IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Criminal Revision No. 1763 of 2002
Date of Decision: January 08, 2009

Gurwinder Singh @ Gurinder Singh .....Petitioner

Versus

State of Punjab .....Respondent

Coram: Hon'ble Mrs.Justice Sabina

Present: Mr.Ranjit Sharma, Advocate for the petitioner.
Mr.Amandeep Singh Rai,AAG Punjab

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Sabina, J.

Petitioner-Gurwinder Singh @ Gurinder Singh was convicted under Section 304-A of the Indian Penal Code (hereinafter referred to as `IPC') by the Judicial Magistrate Ist Class, Amritsar vide judgment dated 21.9.2000. Vide order dated 21.9.2000, petitioner was sentenced to undergo rigorous imprisonment for two years and a fine of Rs.2000/- under Section 304-A IPC . In default of payment of fine, he was directed to further undergo rigorous imprisonment for one month.

Aggrieved by the same, petitioner preferred an appeal and the same was dismissed by the Additional Sessions Judge Amritsar vide judgment dated 13.7.2002. Hence, the present revision petition.

Prosecution story, in brief, as noticed by the Appellate Court in para 2 of its judgment is as under:-

> "The accused-appellant was challaned by the S.H.O. Of P.S.Sultanwind, on the allegations that on 24.6.1995, deceased Amritpal Singh and his uncle Hira Singh came to Sultanwind

Canal with their buffaloes. At about 9.00 o'clock, buffaloes entered the canal, whereas Hira Singh and Amritpal Singh squatted at a platform at a distance of 10/12 years. At about 9.45 O'clock, one DCM Tyota without number came from Bye-pass Tarn Taran at a very high speed driven by a young person aged of 30/35 years. Amritpal Singh was standing on his own side. However, the driver of the vehicle dashed the vehicle against Amritpal Singh causing multiple injuries. Hira Singh raised an alarm and at some distance, some persons stood in front of the vehicle and then the driver left the vehicle and ran away. The complainant could not chase the driver. The injured was taken to Guru Nanak Dev Hospital, Amritsar, where he was declared dead. The investigation was conducted by S.I. Dharam Pal who recorded the statement of Hira Singh as Ex.PA and made his endorsement Ex.PA/1, on the basis of which, FIR Ex.PA/2 u/s 304-A IPC was registered against the accused. The investigating officer at the same time took into police possession DCM Toyota No. PIA 9698 and from that , documents i.e. R.C. Of DCM PIA 9698 and driving licence of Gurwinder Singh were taken into police possession vide recovery memo Ex.PB. Rough site plan of the place of accident was prepared as Ex.PW4/4. Inquest report was prepared. Post mortem examination on the dead body of the deceased was got conducted and after the completion of investigation, challan against the accused was presented in the court for trial."

Learned counsel for the petitioner has submitted that the

petitioner has been falsely involved in this case. No reliance could be placed on the alleged eye witness examined by the prosecution.

Learned counsel for the State has submitted that due to rash and negligent driving of the petitioner, a young boy aged about 9/10 years had died.

Hira Singh (PW2) deposed that on 24.6.1995, he along with his nephew had gone to bathe buffaloes in the Sultanwind canal. At about 9.45 A.M., one DCM Toyota without number came at a fast speed, in a rash and negligent manner, and struck against Amritpal Singh (nephew of complainant) who was present by the side of the road. As a result of this, Amritpal Singh suffered multiple injuries. The vehicle in question was driven by Gurwinder Singh, @ Gurinder Singh accused present in the Court. After causing the accident, accused left the vehicle at the spot and fled away.

Complainant (PW2) has, thus, duly proved the manner of occurrence. The vehicle driven by the petitioner was also recovered from the spot. As per Dr. Gurmanjit Rai (PW6), Amritpal Singh had died due to the injuries which could have been caused in a road side accident. In these circumstances, the conviction of the petitioner under Section 304-A IPC is upheld . However, the sentence of imprisonment of the petitioner is reduced from rigorous imprisonment for two years to rigorous imprisonment for one year.

With this modification, the revision petition stands disposed of.

(Sabina)
Judge

January 08, 2009
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